

SUBCHAPTER A : USED OIL RECYCLING

§324.1. Adoption by Reference.

Except as provided in §§324.3, 324.4, 324.6, 324.7, 324.11-324.13, of this title (relating to Applicability, Prohibitions, Generators, Collection Centers, Transporters and Transfer Facilities, Processors and Rerefiners, and Burners of Off-specification Used Oil for Energy Recovery), and subject to the changes indicated in §324.2 of this title (relating to Definitions), the regulations contained in 40 Code of Federal Regulations (CFR), Part 279, Standards for the Management of Used Oil, as amended, are adopted by reference.

Adopted March 6, 1996

Effective March 6, 1996

§324.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, except when the context clearly indicates otherwise. Terms defined in 40 CFR §279.1 shall have the same meaning when used in this rule, except as specifically defined in this section.

Aboveground tank - A tank used to store or process used oil that is not an underground storage tank as defined in 30 TAC Chapter 334 of this title (relating to Underground and Aboveground Storage Tanks).

Administrator or Regional Administrator - These terms in 40 CFR Part 279 requirements should be replaced with the "State Administrator, the Executive Director of the Texas Natural Resource Conservation Commission or his representative."

Commission - The Texas Natural Resource Conservation Commission (Commission) or its successor.

Environmental Protection Agency (EPA) - This term in 40 CFR Part 279 requirements should be replaced with "commission."

Recycling -

(A) Preparing used oil for reuse as a petroleum product by rerefining, reclaiming, or other means;

(B) Using used oil as a lubricant or petroleum product instead of using a petroleum product made from new oil; or

(C) Burning used oil for energy recovery.

Re-refining - Applying processes to material composed primarily of used oil to produce high-quality base stocks for lubricants or other petroleum products, including settling, filtering, catalytic conversion, fractional/vacuum distillation, hydro treating, or polishing.

Secondary containment - Structures (dikes, berms, and/or retaining walls) or equivalent secondary containment systems that are made of a material(s) that is sufficiently impervious to used oil and capable of containing all potential spills and releases of used oil from the tanks or containers, plus run-on water, until the facility owner or operator can take measures to clean up the released used oil and the run-on water.

Sufficiently impervious to used oil - Capable of containing all potential spills and releases of used oil to soil, surface water, and ground water from containers and tanks until the facility owner or operator can take measures to clean up the released used oil.

Synthetic oils - Oils not derived from crude oil, including those derived from coal, shale, or a polymer-based starting material; and non-polymeric synthetic fluids which are used as hydraulic fluids and heat transfer fluids, such as those based on phosphate esters, diphenyl oxide or alkylated benzenes. Synthetic oils are generally used for the same purpose as crude oil derived oils, are usually mixed and managed in the same manner, and present relatively the same level of hazard after use.

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§324.3. Applicability.

Applicability and exemptions from applicability will be as in 40 CFR Part 279, Subpart B, and as clarified herein.

(1) A used oil that has been determined to be listed hazardous must be handled in accordance with hazardous waste rules. EPA Hazardous Waste Number "F002" shall be used on used oil that is listed hazardous due to halogenated contaminants, because the EPA has not provided a Hazardous Waste Number to properly manifest such listed hazardous waste.

(2) The requirement in 40 CFR Part 279 that refers to compliance with Parts 264 or 265, Subpart K, on used oil storage applies to used oil stored in surface impoundments. Storage of used oil in lagoons, pits, or surface impoundments is prohibited, unless the generator is storing only wastewater containing de minimis quantities of used oil, or unless the unit is in full compliance with 40 CFR Part 264/265, Subpart K. Used oil can be stored in tanks and containers not subject to 40 CFR Part 264 or 265.

(3) Requirements applicable to mixing hazardous waste with used oil are in 40 CFR §279.10 (b) (relating to Mixtures of Used Oil and Hazardous Waste). Mixing of hazardous waste with used oil, by other than generators, in tanks and containers within their applicable accumulation time limit, requires a hazardous waste permit per 30 TAC §335.2 of this title (relating to Permit Required). A waste that is characteristically hazardous for "ignitability only" can be mixed with used oil, but the resultant mixture cannot exhibit the hazardous characteristic of ignitability if it is to be managed under this chapter and 40 CFR Part 279. The resultant mixture formed from mixing used oil and a characteristically hazardous waste, other than solely ignitable waste, must be tested for all likely hazardous characteristics; the resultant mixture will be a hazardous waste rather than used oil if it retains a hazardous characteristic, even if the hazardous characteristic is derived from the used oil. Anyone who mixes used oil with another solid waste to produce from used oil, or to make used oil more amenable for production of fuel oils, lubricants, or other used oil derived products is also a processor subject to 40 CFR Part 279, Subpart F (relating to Standards for Used Oil Processors and Rerefiners) and §324.12 of this chapter (relating to Processors and Rerefiners).

(4) A used oil shall not be regulated under this chapter and 40 CFR Part 279 until it is a spent material as defined in 40 CFR §261.1(c)(1) and 30 TAC §335.17 of this title (relating to Special Definitions for Recyclable Materials and Nonhazardous Recyclable Materials).

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§324.4. Prohibitions.

Prohibitions will be as in 40 CFR Subpart B, §279.12 and as specified herein.

(1) A person shall not collect, transport, store, burn, market, recycle, process, use, discharge, or dispose of used oil in any manner that endangers the public health or welfare or endangers or damages the environment.

(2) A person commits an offense if, without benefit of a valid permit authorizing the particular action, the person:

(A) intentionally discharges used oil into a sewer, drainage system, septic tank, surface water or groundwater, watercourse, or marine water;

(B) knowingly mixes or commingles used oil with waste that is to be disposed of in landfills or directly disposes of used oil on land;

(C) knowingly transports, treats, stores, disposes of, recycles, markets, burns, processes, rerefines, or causes any used oil to be transported or otherwise handled within the state:

(i) without first complying with the notification/registration requirements of this rule; and/or

(ii) in violation of standards or rules for the management of used oil;

(D) intentionally applies used oil to roads or land for dust suppression, weed abatement, or other similar uses that introduce used oil into the environment;

(E) violates an order of the commission to cease and desist any activity prohibited by this section or any rule applicable to a prohibited activity; or

(F) intentionally makes any false statement or representation in an application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of program compliance.

(3) It is an exception to the application of paragraph (2) of this subsection if a person unknowingly disposes into the environment any used oil that has not been properly segregated or separated by the generator from other solid wastes.

(4) It is an exception to the application of paragraph (2)(B) of this subsection if the mixing or commingling of used oil with waste that is to be disposed of in landfills is incident to and the unavoidable result of the mechanical shredding of motor vehicles, appliances or other items of scrap, used, or obsolete metals.

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§324.5. Notice by Retail Dealer.

(a) A retail dealer who annually sells directly to the public more than 500 gallons of automotive oil annually in containers for use off-premises shall post in a prominent place a sign provided by the commission:

(1) informing the public that improper disposal of used oil is prohibited by law;

(2) informing the public that used oil filters cannot be disposed of in municipal landfills or waste going to municipal landfills;

(3) prominently displaying the toll-free telephone number of the state used oil information center.

(b) Written requests for signs should be sent to the Texas Natural Resource Conservation Commission, Municipal Solid Waste Division, Automotive Waste Management Section, MC 125, P.O. Box 13087, Austin, Texas 78711-3087.

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§324.6. Generators.

Standards for used oil generators shall be as in 40 CFR Part 279, Subpart C. A person or entity that services equipment involving removal of used oil or changes used oil at a customer's home or business and transports the used oil from the site in quantities less than or equal to 55 gallons may opt to be the generator of the used oil. If the service company removing the used oil from equipment does not assume generator responsibility, the site owner or operator where the used oil is removed will remain the generator.

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§324.7. Collection Centers.

Standards for do-it-yourselfer used oil collection centers and used oil collection centers shall be as in 40 CFR Part 279, Subpart D and as specified herein. All appropriate businesses and government agencies are encouraged to serve as do-it-yourselfer used oil collection centers or used oil collection centers. All collection centers collecting used oil from households will be publicized by the commission.

(1) Do-it yourselfer used oil collection center:

(A) must post and maintain a durable and legible sign identifying the site as a household used oil collection center.

(B) registration requirements:

(i) must register biennially, by no later than January 25 following the close of the biennial year, with the Texas Natural Resource Conservation Commission, Municipal Solid Waste Division, Automotive Waste Management Section, MC 125, P.O. Box 13087, Austin, Texas 78711-3087, utilizing a form provided by the commission. Registrations will expire on December 31 in even numbered years. Collection centers that have already registered their used oil activities prior to the effective date of this rule do not need to register again until their registrations have expired on December 1 of an even numbered year. New collection centers shall register within 30 days of initial operation;

(ii) must collect used oil from households during business hours at each location to be exempt from the fee on first sale of automotive oil;

(C) must notify the commission in writing within 30 days following abandonment or closure of the collection center or the cessation of accepting household used oil from private citizens;

(D) shall annually report the amount of household used oil collected by January 25 of each year on a form provided by the commission;

(E) is not subject to the rebuttable presumption.

(2) Used Oil Collection Center:

(A) must post and maintain a durable and legible sign identifying the site as a household used oil collection center.

(B) registration requirements:

(i) must register biennially, by no later than January 25 following the close of the biennial year, with the Texas Natural Resource Conservation Commission, Municipal Solid Waste Division, Automotive Waste Management Section, MC 125, P.O. Box 13087, Austin, TX 78711-3087, utilizing a form provided by the commission. Registrations will expire on December 31 in even numbered years. Collection centers that have already registered their used oil activities prior to the effective date of this rule do not need to register again until their registrations have expired on December 1 of an even numbered year. New collection centers shall register within 30 days of initial operation;

(ii) must collect used oil from households during business hours at each location to be exempt from the fee on first sale of automotive oil;

(C) must notify the commission in writing within 30 days following abandonment or closure of the collection center or the cessation of accepting household used oil from private citizens;

(D) shall report annually the amount of household and non-household used oil collected by January 25 of each year on a form provided by the commission. Mixtures of household used oil and non-household used oil shall be considered non-household used oil;

(E) is not subject to the rebuttable presumption on household used oil if it is not mixed with non-household used oil.

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§324.8. Limitation of Liability.

(a) A person may not recover from the owner, operator, or lessor of a registered do-it-yourselfer used oil collection center or used oil collection center any damages or costs of response actions at another location resulting from a release or threatened release of used oil collected at the center if:

(1) the owner, operator, or lessor of the collection center does not mix the used oil collected with any hazardous waste or polychlorinated biphenyls (PCBs);

(2) the owner, operator, or lessor of the collection center does not accept used oil that the owner, operator, or lessor knows contains hazardous waste or PCBs; and

(3) the collection center is in compliance with management standards adopted by the commission.

(b) For purposes of this section, the owner, operator, or lessor of a do-it-yourselfer used oil collection center or a used oil collection center may presume that a quantity of less than five gallons of used oil accepted at any one time from any member of the public is not mixed with a hazardous waste or PCBs, provided that the owner, operator, or lessor acts in good faith.

(c) This section applies only to activities directly related to the collection of used oil by a do-it-yourselfer used oil collection center or a used oil collection center. This section does not apply to grossly negligent activities related to the operation of a do-it-yourselfer used oil collection center or a used oil collection center.

(d) This section does not affect or modify the obligations or liability of any person other than the owner, operator, or lessor of the collection center under any other provisions of state or federal law,

including common law, for injury or damage resulting from a release of used oil or hazardous substances.

(e) This section does not affect or modify the obligations or liability of any owner, operator, or lessor of a collection center with regard to services other than accepting used oil from the public.

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§324.9. Reimbursement of Used Oil Collection Center's Hazardous Waste Disposal Expense.

(a) The commission, on proper application, shall reimburse the owner or operator of an eligible registered do-it-yourselfer used oil collection center or a used oil collection center for costs associated with the collection center's disposal of:

(1) household do-it-yourselfer used oil collected by the collection center that, unknown to the center at the time of collection, contains hazardous wastes or is unfit for recycling;

(2) household do-it-yourselfer used oil collected by the collection center that has been commingled with oils described in paragraph (1) of this subsection and is unsuitable for recycling; or

(3) contaminated used oil left at the collection center as used oil after posted business hours and without the knowledge of the collection center.

(b) A registered do-it-yourselfer used oil collection center or used oil collection center is eligible for reimbursement if it demonstrates to the satisfaction of the commission that:

(1) the center has established procedures to minimize the risk that the center will mix the used oil the center generates or collects from the public with hazardous wastes, especially halogenated wastes;

(2) the center accepts not more than:

(A) five gallons of household used oil from any person at any one time if the center is a registered do-it-yourselfer used oil collection center; or

(B) fifty-five gallons of non-household used oil from any person at one time if the center is a registered used oil collection center.

(3) the center can document to the satisfaction of the commission the volume of used oil the center collects from the public during any period under review by:

(A) providing a process by which all individuals leaving household do-it-yourselfer used oil at the center are required to provide their names, addresses, and the approximate amounts of used oil brought to the collection center; or

(B) another method approved by the commission.

(c) For the purpose of subsection (b)(2) of this section, the owner or operator of a registered do-it-yourselfer used oil collection center or used oil collection center may presume that a quantity of used oil collected from a member of the public that does not exceed the applicable collection limit established by that subsection is not mixed with a hazardous substance if the owner or operator acts in good faith in the belief the oil is generated from the individual's personal activity.

(d) In any state fiscal year, a registered do-it-yourselfer used oil collection center or used oil collection center may not be reimbursed for more than \$7,500 in total eligible disposal costs, subject to §324.10(d) of this title (relating to Procedures for Reimbursement of Collection Centers).

(e) Reimbursements made under this section shall be paid out of the used oil recycling fund and may not exceed an aggregate amount of \$500,000 each fiscal year.

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§324.10. Procedures for Reimbursement of Collection Centers.

(a) An owner or operator of a registered do-it-yourselfer used oil collection center or used oil collection center may apply for reimbursement from the commission.

(b) An application for reimbursement shall be submitted on a form approved or provided by the commission.

(c) An application must contain:

(1) the name, address, and telephone number of the applicant;

(2) the name, mailing address, location address, and commission registration number of the registered do-it-yourselfer used oil collection center or used oil collection center from which the contaminated oil was removed;

(3) the name, address, telephone number, and commission registration number of the hazardous waste transporter used to dispose of the contaminated used oil;

(4) a copy of any shipping documents that accompanied the transportation of the shipment of used oil;

(5) a copy of each invoice for which reimbursement is requested and evidence that the amount shown on the invoice has been paid in full in the form of:

(A) canceled checks;

(B) business receipts from the person who performed the work; or

(C) other documentation approved by the commission;

(6) a waste-characterization or similar documentation required before acceptance of a hazardous waste by the disposal facility that accepted the contaminated used oil for treatment or disposal; and

(7) any other information that the executive director may reasonably require.

(d) All claims for reimbursement filed under this section and §324.9 of this title (relating to Reimbursement of Used Oil Collection Center's Hazardous Waste Disposal Expense) are subject to funds available for disbursement in the used oil recycling fund and to §324.9(e) of this title. Section 324.9 of this title and this section do not create an entitlement to money in the used oil recycling fund or any other fund.

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§324.11. Transporters and Transfer Facilities.

Standards for used oil transporters and transfer facilities shall be as in 40 CFR Part 279, Subpart E and as specified in this section.

(1) Underground storage tanks (USTs). Underground storage tanks that contain used oil are subject to the UST standards in 30 TAC Chapter 334 of this title (relating to Underground and Aboveground Storage Tanks) in addition to those in 40 CFR Part 279.

(2) Registration. Transporters must register with the EPA one time on their used oil activities and with the commission biennially by January 25 of the year following the end of the biennial year. Transporters must register their used oil activities within 90 days of initiation under this rule if they have not previously registered their specific used oil activities with the commission and the EPA prior to the effective date of this rule. Transporters must register, through the commission, using EPA Form 8700-12 (one time) and a form provided by the commission (biennially). Registration forms should be mailed to the Texas Natural Resource Conservation Commission, Municipal Solid Waste Division, Automotive Waste Management Section, MC 125, P.O. Box 13087, Austin, Texas 78711-3087.

(3) Annual report. Report annually, by January 25 of the year following the report year, the sources of used oil handled during the preceding year, the quantity of used oil received, the date of receipt, and the destination or end use of the used oil. A single consolidated report may be submitted for each company summarizing each type of used oil activity, i.e. generator, transporter, transfer facility, re-refiner, processor, marketer, burner.

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§324.12. Processors and Rerefiners.

Standards for used oil processors and rerefiners shall be as in 40 CFR Part 279, Subpart F and as specified in this section.

(1) Underground storage tanks. Section 324.11(1) of this title (relating to Transporters and Transfer Facilities) applies.

(2) Registration. Processors and rerefiners must register with the EPA one time on their used oil activities and with the commission biennially by January 25 of the year following the end of the biennial year. Processors and rerefiners must register their used oil activities within 90 days of initiation under this rule if they have not previously registered their specific used oil activities with the commission and the EPA prior to the effective date of this rule. Processors and rerefiners must register, through the commission, using EPA Form 8700-12 (one time) and a form provided by the commission (biennially). Registration forms should be mailed to the Texas Natural Resource Conservation Commission, Municipal Solid Waste Division, Automotive Waste Management Section, MC 125, P.O. Box 13087, Austin, Texas 78711-3087.

(3) Analysis plan. Each facility must prepare an analysis plan which a facility will follow when performing sampling and analysis, keeping records, and when complying with analytical requirements for documenting that used oil is not listed hazardous and/or the used oil fuel specification has been met. This plan must specify the frequency of sampling and analysis, procedures and analysis (to assure listed hazardous wastes are not mixed with the used oil received), and procedures for handling a shipment of contaminated used oil. A facility that only processes its own used oil and uses adequate process knowledge instead of analysis to prove that the used oil meets rule requirements need not prepare an analysis plan.

(4) Annual report. The processor/rerefiner biennial report information required by 40 CFR §279.57(b) shall be provided to the commission annually by January 25 of the following year. A single consolidated report may be submitted for each company summarizing each type of used oil activity, i.e. generator, transporter, transfer facility, re-refiner, processor, marketer, burner. The information shall be entered on a commission-prescribed form and forwarded to the commission. Mail the report form to the Texas Natural Resource Conservation Commission, Municipal Solid Waste Division, Automotive Waste Management Section, MC 125, P.O. Box 13087, Austin, Texas 78711-3087.

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§324.13. Burners of Off-specification Used Oil for Energy Recovery.

Standards for burners of off-specification used oil for energy recovery shall be as in 40 CFR Part 279, Subpart G and as specified in this section.

(1) Underground storage tanks. Section 324.11(1) of this title (relating to Transporters and Transfer Facilities) applies.

(2) Registration. Burners of off-specification used oil for energy recovery must register with the EPA one time on their used oil activities and with the commission biennially by January 25 of the year following the end of the biennial year. Burners must register their used oil activities within 90 days of initiation under this rule if they have not previously registered their specific used oil activities with the commission and the EPA prior to the effective date of this rule. Burners must register, through the commission, using EPA Form 8700-12 (one time) and a form provided by the commission (biennially). Registration forms should be mailed to the Texas Natural Resource Conservation Commission, Municipal Solid Waste Division, Automotive Waste Management Section, MC 125, P.O. Box 13087, Austin, Texas 78711-3087.

(3) Annual report. Report annually, by January 25 of the year following the report year, the sources of used oil handled during the preceding year, the quantity of used oil received, and the date of receipt. A single consolidated report may be submitted for each company summarizing each type of used oil activity, i.e. generator, transporter, transfer facility, re-refiner, processor, marketer, burner.

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§324.14. Marketers of Used Oil Fuel.

Standards for marketers of used oil which will be burned for energy recovery shall be as in 40 CFR Part 279, Subpart H, and this subchapter. Marketers of used oil which will be burned for energy recovery must register with the EPA one time on their used oil activities and the commission biennially by January 25 of the year following the end of the biennial year. Marketers must register their used oil activities within 90 days of initiation under this rule if they have not previously registered their specific used oil activities with the commission and the EPA prior to the effective date of this rule. Marketers must register, through the commission, using EPA Form 8700-12 (one time) and a form provided by the commission (biennially). Registration forms should be mailed to the Texas Natural Resource Conservation Commission, Municipal Solid Waste Division, Automotive Waste Management Section, MC 125, P.O. Box 13087, Austin, TX 78711-3087.

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§324.15. Spills.

Whenever there is a catastrophic release or discharge of used oil and used oil reaches the environment, corrective measures must be immediately taken by the responsible person to adequately protect human health and the environment from potential damages. A spill of used oil in an amount sufficient to cause a sheen on water or a spill of automotive engine used oil or a mixture of automotive used oil and other used oil of 25 gallons or more that goes into the environment at a do-it-yourselfer used oil collection center should be reported to the commission as soon as possible and not later than 24 hours after discovery. (See 40 CFR §279.43(c) for discharges during transport.) A spill or overfill of used oil at an underground storage tank that results in a release to the environment that exceeds 25 gallons, or that causes a sheen on nearby surface water shall be reported and handled as in 30 TAC Chapter 334, §334.75 of this title (relating to Reporting and Cleanup of Surface Spills and Overfills).

All other used oil spills must be reported in accordance with other applicable commission requirements and agreements. The responsible person may notify the commission in any reasonable manner including by telephone, in person, or by any other method approved by the commission.

(1) During normal business hours, the responsible person may notify the regional office for the commission region in which the discharge or spill occurred; or

(2) After normal business hours, the responsible person may call the commission Emergency Response Unit 24-hour number at (512) 239-2507 or the State toll-free Spill Reporting Hotline at (800) 832-8224.

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§324.16. Polychlorinated Biphenyls (PCBs).

Pursuant to 40 CFR 279 (Table 1), the applicable standards for the burning of used oil containing PCB's shall be as set out in 40 CFR 761.20(e).

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§324.17. Criminal Penalties.

(a) Except as provided by subsection (b) of this section, an offense under §324.4 of this title (relating to Prohibitions) is punishable by:

(1) a fine of not less than \$100 or more than \$10,000 for each act of violation or each day of a continuing violation;

(2) imprisonment for at least six months; or

(3) both the fine and the imprisonment.

(b) If it is shown on the trial of an offense under §324.4 of this title (relating to Prohibitions) that the defendant has previously been convicted of an offense under §324.4 of this title, the offense is punishable by:

(1) a fine of not less than \$200 or more than \$20,000 for each act of violation or each day of a continuing violation;

(2) imprisonment for at least one year; or

(3) both the fine and the imprisonment.

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§324.18. Civil Penalty.

(a) Except as provided by subsection (c) of this section, a person who violates this chapter or a rule or order adopted under this chapter is liable for a civil penalty of not less than \$100 or more than \$500 for each act of violation and for each day of violation.

(b) A civil penalty recovered in a suit brought by a local government under this section shall be divided equally between the state and the local government that brought the suit. The state shall deposit its recovery to the credit of the used oil recycling fund.

(c) The penalty imposed by this section does not apply to failure to file a report under §324.7 of this title (relating to Collection Centers).

(d) The commission, a local government in whose jurisdiction the violation occurs, or the state may bring suit to recover a penalty under this section.

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§324.19. Injunctive Relief.

(a) If it appears that a violation or threat of violation of the sections under this rule or any order adopted under this rule has occurred or is about to occur and is causing or may cause immediate injury or constitutes a significant threat to the health, welfare, or personal property of a citizen or a local government, the commission, the local government, or the state may bring suit in district court for injunctive relief to restrain the violation or the threat of violation.

(b) In a suit for injunctive relief, the court may grant an injunctive or mandatory relief warranted by the facts, including a temporary restraining order, a temporary injunction, or a permanent injunction. Injunctive relief shall be granted without the requirement for a bond or other undertaking by any governmental entity seeking the injunction.

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§324.20. Venue.

A suit for injunctive relief, for recovery of a civil penalty, or both, may be brought in:

- (1) the county in which the defendant resides;
- (2) the county in which the violation or threat of violation occurs; or
- (3) Travis County.

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§324.21. Suspension or Revocation of Registration.

(a) The commission may suspend or revoke a registration for:

- (1) failure to maintain complete and accurate records;
- (2) alteration of any record maintained or received by the registrant, outside of justified and documented corrections;
- (3) delivery of used oil to an entity not registered with the commission;
- (4) failure to comply with this rule or an order issued by the commission;
- (5) failure to submit annual reports as required;
- (6) failure to maintain financial assurance as required; or
- (7) failure to reasonably perform the used oil activities for which the registration was issued.

(b) A registration shall be suspended for a period of one year; however, depending upon the seriousness of the offense(s), the time of suspension may be increased or decreased. A registration is revoked automatically upon a second suspension. If the registration is suspended or revoked a facility shall not possess or accept used oil regulated under this rule.

(c) The holder of a used oil registration that has been revoked by the commission may reapply for registration pursuant to this rule as if applying for the first time, after a period of at least one year from the date of revocation. If a registration is revoked by the commission a second time, the revocation shall be permanent.

(d) Appeal of a suspension or revocation of registration procedures are as follows:

(1) An opportunity for a formal hearing on the suspension or revocation of registration may be requested in writing by the applicant by certified mail, return receipt requested, provided the request is postmarked within 20 days after a notice of proposed suspension or revocation of registration has been sent from the executive director to the last known address of the applicant.

(2) An opportunity for a formal hearing may be requested in writing by the applicant by certified mail, return receipt requested, provided the request is postmarked within 20 days after a notice of denial of registration suspension or revocation has been sent from the executive director to the last known address listed on the application. If the registration is denied, a person shall not possess used oil regulated under this rule.

(3) The formal hearing under this paragraph shall be in accordance with the requirements of the Administrative Procedure Act, Texas Government Code, Chapter 2002 (Vernon

1992), the Texas Solid Waste Disposal Act, Texas Health, and Safety Code, Chapters 361 and 371 (Vernon 1992), and the rules of the commission.

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